

# COMPLAINT PROCESS

Employee feels discriminated against because of race, color, sex, age, religion, national origin, disability, and/or reprisal

Consults EEO official within 45 days of incident or knowledge of action

Aggrieved offered traditional counseling/mediation

Counselor completes inquiry and issues Notice of Right to File (30 days)

Mediator mediates; NSA if successful or Notice of Right to File issued by EEO official if unsuccessful

DA Dir of EEO issues Final Agency Action (FAA) (within 40 days)

Complainant requests hearing (within 30 days); EEOC AJ conducts hearing; makes

OCI investigates claims; complainant notified of rights

Acceptance/Partial Acceptance

Dismissal

Receipt of Complaint Acknowledged

Formal complaint filed (15 days)

DA Dir of EEO issues Final Agency Decision (FAD) (within 60 days)

Complainant requests decision without hearing or fails to respond (within 30 days)

OFO (within 30 days) or file suit in U.S. District Court

## Appeal Options

**FAA**  
(Complainant or Agency can appeal):

- \* Accepted AJ decision; within 30 days
- \* AJ decision not accepted; within 30 days

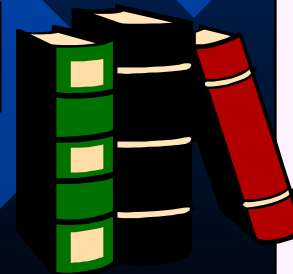
**FAD**  
(Complainant Appeals): within 30 days

**Civil**  
FAD/FAA, no appeal; within 90 days

- \* FAD/FAA, appealed; no OFO decision; after 180 days
- \* FAD/FAA, appealed;

OFO decision; within 90 days

- \* After 180 days of filing formal if no FAD or FAA/no



# COMPLAINT PROCESS Mixed Cases

Complaint based on race, color, religion, sex, national origin, age, disability, or reprisal related to or stemming from an action that may be appealed to the MSPB

May raise claims as a direct appeal to the MSPB or as a mixed-case EEO complaint, but not both

Agency does not dispute MSPB jurisdiction

- \* Mixed case appeal filed first, agency dismisses
- \* Agency/EEOC AJ advises complainant to bring dismissed claims to attention of MSPB
- \* Complaint not accepted, FAD appealable to EEOC

Agency questions MSPB jurisdiction

Held in abeyance until MSPB AJ rules on jurisdictional issue

MSPB dismisses, no jurisdiction

Agency informs individual to contact EEO counselor within 45 days

Elects to file mixed case complaint

- \* Within 45 days following completion of investigation, agency must issue FAD without a hearing
- \* If FAD not issued within 120 days, complainant may appeal the claim to MSPB
- \* Appeal FAD within 30 days to MSPB



# CLASS COMPLAINT PROCESS

Employee who feels class affected by agency policy or practice that discriminates against a group, and who had been personally harmed by the policy or practice, may serve as class agent; complainant can also move to class certification at any reasonable point it becomes apparent there are class implications to the claim raised in an individual complaint.

Consults EEO counselor within 45 days of incident or knowledge of action

Counselor completes inquiry and issues Notice of Right to File (30 days)

Formal complaint filed (within 15 days)

Parties develop evidence (within 60 days)

Class members notified (within 15 days)

Accepted

Dismissed

DA Dir of EEO Issues Final Order (within 40 days)

EEOC AJ decides whether to certify or dismiss complaint

Agency prepares brief regarding acceptability of class status and submits file to appropriate EEOC district office (within 30 days)

EEOC AJ conducts hearing and recommends based on merits

DA Dir of EEO decision (within 60 days)

Class members notified (within 10 days)

## Appeal Options

- \* Agency accepts the AJ's decision: within 30 days
- \* Agency determines not to fully implement decision: 60 days

Optional appeal to EEOC (within 30 days) or file suit in U.S. District Court

